

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
January 7, 2019**

MINUTES

Members Present:

Peter DeRosa
Phyllis Berger
Rosemary Ostfeld
Theodore Koch, Alternate

Members Absent:

Harry Clarke
Gary Upton, Chairman
Ann Cicchiello, Vice Chairman
Jack Chomicz

Also Present:

Paul Dagle, Board of Selectman
Gary Goeschel, Director of Planning/Inland Wetlands Agent

FILED IN EAST LYME
CONNECTICUT
Jan 10, 20 19 AT 8:36 AM PM
Brooks Thomas ATC
EAST LYME TOWN CLERK

CALL TO ORDER:

Acting Chairman Peter DeRosa called the Inland Wetlands Agency meeting of January 7, 2019 to order at 7:07p.m.

PLEDGE OF ALLEGIANCE: Observed

Chairman DeRosa welcomed the audience and agency members to the meeting, and thanked them for attending.

I. Additions to the Agenda -

Ms. Berger moved to move item 5, Ex-Officio Report, to the beginning and to add to the Agenda item B under New Business, Application of Russ Smith, Amity Construction, Owner; Application for an Inland Wetlands Permit for demolition of an existing house and construction of a new single family dwelling with necessary appurtenances at 16 Lakeview Circle, Niantic. Second by Ms. Ostfeld. Motion passed 4-0-0.

II. Public Hearings:

- A. Pazz Construction Applicant, Estate of Elizabeth Hazel Hurschman-Victoria, Margaret Prokop, Co-Conservator; Application for construction of four elderly housing units, including but not limited to road improvements and construction of parking areas at property located at 285 Boston Post Road, East Lyme Assessor's Map 30.1, Lot 59.

Before we open the public hearing this evening for the Pazz Construction application, I would like to inform the audience and the Commission of the Ground Rules we will be following this evening to conduct the public hearing.

The Agency has 35 days to conduct the hearing without requesting any additional extension time. As such, the public hearing for this application must close by our next regularly scheduled meeting on February 11, 2019.

The purpose of a public hearing is an opportunity for the Agency to gather evidence and testimony, including public comment, regarding the pending application. The Wetlands Agency encourages all in attendance to offer comments and ask questions. However, a successful public hearing requires some simple rules be followed. These ground rules will ensure that all in attendance are treated in a respectful and courteous manner, and that all who desire to speak will have the opportunity to be heard. As such, the rules are as follows:

1. The applicant or his representative will make a formal presentation to the Agency stating the proposed regulated activities, the wetland and watercourse impacts, and any alternatives which were considered by the applicant. The Agency may, during the presentation, ask questions of the applicant for clarification.
2. After the applicant's presentation is completed, the Chair will ask for members of the public who wish to speak in favor of or in opposition to the application to address their comments to the Agency from the podium.
3. We ask that no one speak unless recognized by the Chair for that purpose. This is necessary to ensure that only one person at a time speaks on any issue, making it easier for everyone to understand as well as for clearer legal transcription. Upon recognition by the Chair, the individual addressing the Agency must identify themselves by clearly stating their name and address for the record. If necessary, an individual may be asked to spell their name for the record.
4. Anyone choosing to speak must address their remarks to the Wetlands Agency and not to other members of the public or the applicant. Any debate between those in favor and those opposed the proposal must be strictly avoided. Oral comments can generally be delivered in 5-minutes. If there are a large number of individuals who wish to speak, the Chair reserves the right, in its sole discretion, to enforce a 5-minute rule in order that all who wish to speak may have an opportunity to do so. Individuals who wish to be heard multiple times may return to the podium but, only after everyone who wants to speak has spoken. To assist us in reducing lengthy public hearings, please be mindful to avoid repetitive comments. If you are in favor, simply tell us and give us your reasons why; and likewise, if you are opposed.
5. As the Wetlands Agency is here to listen to the public's comments about the subject of the hearing, the Agency is NOT here to express its own views or opinions thereon. The Agency will NOT participate in a debate of the issues. No person has the right to demand an answer to a specific question from a member of the Agency. As noted earlier, questions should seek clarification and information. Questions should not lead to a debate of the issues.
6. All questions are to be directed to the Chair, who may either answer them or refer them to a Commission member, the Town Attorney, Town staff, or the applicant. The answer may be deferred and subject to further review or study and answered at a later date.
7. No member of the public shall engage in any demonstration, booing, handclapping, or otherwise disruptive behavior.
8. The Chair will be responsible for ensuring that these rules are followed. Anyone violating these guidelines will be asked to refrain from doing so, and may, in the sole discretion of the chairperson, be asked to leave the public hearing.

9. The Wetlands Agency has 35-days from the date the public hearing commences to complete the public hearing. During that time, if the commission requires additional information beyond that which has been or will be submitted, the Agency may ask the applicant for an extension of the public hearing period.
10. Upon the close of the public hearing, the Inland Wetlands Agency has 35 days from said date to render its decision. If the Agency requires additional time to render its decision, it may ask the applicant for an extension of the time in which to render a decision. The extensions mentioned above are granted by the applicant and can not to exceed a total of 65 days.

Mr. Goeschel noted that the legal ad had been published in The Day Newspaper on December 27, 2018 and January 3, 2019 noticing the public hearing.

Mr. Goeschel then read into the record the list of Exhibits:

Exhibit A – Application

Exhibit B – Narrative

Exhibit C – Certificates of Mailing

Exhibit D – Legal Ad as noted

Exhibit E – Memo of Victor Benni dated December 17, 2018

Exhibit F – Staff Review of Brad Kargl, Utilities Engineer, dated December 18, 2018

Mr. Jason Pazzaglia, of 21 Darrows Ridge Rd, the Applicant, Pazz Construction passed out site plans (Exhibit G).

Mr. Pazzaglia stated that Mr. Pfanner, the surveyor, couldn't attend this evening and that he has been in construction for 20 years and thought he could present the majority of the application, and any pressing matters or questions could be continued. He reviewed Page 1 of 4 showing what they are doing, he demonstrated the line about 120' from the Pattagansett Lake.

He then reviewed his responses to Mr. Benni's memo, Exhibit E.

- Item 2, they have addressed the request for hay bales to back the proposed silt fence along the lake line. There is a detail provided on page 4 of how they are staked and the process to put them in.
- Item 3, they have labeled the proposed sod swales on the site plans. The high point of the property is nearest Boston Post Road. They are grading the property from Boston Post Road to the East to catch the water along the boat launch side of the property. The temporary hay bale check dams are there, basically the velocity will be slowed down by the hay bale check dams.
- Item 4, the construction entrance has been identified on page 2 of 4, and the temporary construction entrance detail was added to page 4.
- Item 5, the Pollution Prevention & Stormwater Quality Management plan has been composed for entry tonight as Exhibit H. This was designed by Mr. Pfanner, and would be followed by the developer and/or successor owner.

- Item 6, the bond would be contingent on the wetland approval as is normally handled by the Wetlands Agent and his office.
- Item 1, Mr. Pfanner has provided the calculations for the proposed detention basin and provided them to Mr. Benni. Mr. Pazzaglia was not comfortable going through the numbers, but felt Mr. Benni could review that with Mr. Pfanner and report back under staff comments to the Agency.

Mr. Goeschel advised the Agency that if they close the public hearing they can still receive staff comments; however the Applicant cannot rebut them if the comments are not favorable. Mr. Pazzaglia stated that he spoke with Mr. Pfanner and Mr. Benni and neither saw it as being an issue.

Mr. Pazzaglia continued stating this is a four unit townhome elderly housing project, which sits approximately 60' from the lake, so it is within the upland review area. The sheds along the pond have to be demolished. It is basically cleared already, but, there are some invasive trees and weeds on the adjacent property line, but it's mostly grass to the lake. Mr. Goeschel noted that there were some small stands of bamboo observed on site walk which the commission would want eradicated. He noted that Mr. Pazzaglia would need a plan for that bamboo eradication. Also the concrete slab next to the shed that would have to be removed for detention basin.

Ms. Berger noted it would be nice if Mr. Pfanner could provide information on the Bamboo removal and how to clean up that area, in addition to the Bamboo in front of the white house. Mr. Pazzaglia stated it would have to be removed. Mr. Goeschel noted that he was not sure Mr. Pfanner was the appropriate professional to comment on removal of Bamboo, the applicant may want to employ a soil scientist or landscape architect, or someone familiar with bamboo.

Ms. Berger asked why these units are not being connected to sewer since it runs right by the property. Mr. Pazzaglia explained that it is a force main that runs past the property, the Sewer Commission will not allow a connection. Mr. Goeschel noted that based on Mr. Kargl's letter, sewer is not available. He noted they are awaiting comments from the Ledge Light Health District but the septic systems are outside of the 100' review area. He also noted that at the site walk there was a swale that had standing water between the two properties, he is not sure if it would be delineated as a wetland, but if it is, then a portion of the septic and piping would be within the 100' upland review area. Mr. Pazzaglia would have to have Mr. Pfanner look at that more closely. He stated that the tanks are not in the buffer, the leaching area is about 175' from the lake. Along Eastern side of the property is a swale with check dams, every 50' to 75', then there is a small retention basin, as the water level builds up, it goes to the next check dam, etc., then to the drainage basin, there is rip rap and a spill way to reduce the velocity of water.

Ms. Berger asked if everything is graded that way, toward the swale. Mr. Pazzaglia responded yes. Ms. Berger asked if the trees there were going to be removed. Mr. Pazzaglia responded they would be removing the low lying under brush. Mr. Goeschel

responded that as was seen on the site walk there is some leaf litter and scrub, which could be reclaimed with native plantings and seeded with a conservation mix or fescue to maintain the buffer along the lake. There is not a lot of room between the detention basin and the edge of water.

It was agreed that Mr. Pfanner would attend the next meeting, and recommended that Mr. Pazzaglia get a soil scientist to deal with invasive plants.

Chairman DeRosa opened the public hearing to public comments.

Mr. William Argyle 12 Pattagansett Dr stated he is an adjacent property owner. The residents around the lake are aggressive and have a long going procedure to maintain the lake, through hydro-raking to remove vegetation, etc. He stated that along that edge of the lake it is particularly filled with weeds and plants, there is little water depth in that area. It seems like an undertaking like this will add to that with water runoff. . The water table is already high. The addition of the four units with the two existing buildings, another leaching field, and runoff from parking lots and roofs will add to the problems they have been trying to address for years. This is a profit project.

Chairman DeRosa asked what specific type of impact Mr. Argyle was concerned with. Mr. Argyle stated he is concerned about the growth in the lake, more runoff and debris without an agreement to maintain the lake, as right now each owner does their part along their property to maintain it. Has the owner considered what they will do along their property to help maintain the lake. He would like a commitment from the owner to help maintain lake. In addition, the proximity to the lake of the buildings, the runoff, septic, and the flow into the lake, the storm water from the roads goes into the lake now in that area, and those areas have the most growth and are choked up.

Mr. Koch asked if a proper management plan keep things clean to your satisfaction or does it need a change, or a commitment from the owner. Mr. Argyle responded that it seems like an aggressive proposal to the property, adding to the two buildings that exist, and the existing septic systems on the property. He wasn't sure if he wanted to see anything changed, but he wanted less impact.

Ms. Berger moved to continue the public hearing for Pazz Construction Applicant, Estate of Elizabeth Hazel Hurschman-Victoria, Margaret Prokop, Co-Conservator; Application for construction of four elderly housing units, including but not limited to road improvements and construction of parking areas at property located at 285 Boston Post Road, East Lyme Assessor's Map 30.1, Lot 59 to the next regularly scheduled East Lyme Inland Wetlands Agency meeting of February 11, 2019. Mr. Koch second. Mr. Goeschel noted for the Agency that they would have to close the public hearing at that time or schedule a special meeting, that February 11, 2019 would be the 35 day window. Motion passed 4-0-0.

- III. **Ex-Officio Report** – Paul Dagle, Ex-Officio for the East Lyme Board of Selectman advised the Agency that there is a concept and potential plan for public safety complex. There will be a forum at the high school January 15 at 7 p.m. He further stated that on January 10 by invitation to some boards and commission as well as the

Democratic and Republican Town Committees there would be a forum that will take place which will include the task force who developed the plan. He was not sure of the time but believed it to be 7:00 p.m. The third forum would be on January 22 at the Board of Selectman meeting where they anticipate acting on the recommendation of either in favor or against, followed by the January 23 Board of Finance meeting. The proposal would then go to town meeting if it passes both. Information is online and questions can be submitted to the town and the public forum will be means to answer those. Also, Rosemary Ostfeld was approved as a member of this agency, he is glad to see she is seated tonight.

- IV. **Public Delegations** - *Public Delegations is the time when members of the public are invited to speak to the Commission about certain matters. Issues or concerns related to approved wetland permits and in-house proposals or general topics of discussion are open to comment. Agenda items, referrals, applications subject to a decision by the Commission, a public hearing, or in litigation may not be discussed. The members of the Commission will not directly answer questions or make comment during delegations.*

None.

- V. **Acceptance of Minutes –**

Meeting Minutes of November 19, 2018 Special Meeting of the East Lyme Inland Wetlands Agency were tabled.

- VI. **Pending Applications -**

Pazz Construction Applicant, Estate of Elizabeth Hazel Hurschman-Victoria, Margaret Prokop, Co-Conservator; Application for construction of four elderly housing units, including but not limited to road improvements and construction of parking areas at property located at 285 Boston Post Road, East Lyme Assessor's Map 30.1, Lot 59.

- VII. **New Business –**

- A. Laurie Zrenda, Applicant/Owner; Application for a 1 lot re-subdivision of property located at 40 Mostowy Road, for the Construction of a new single family dwelling, East Lyme Assessor's Map 44.0, Lot 5.

Mr. Goeschel reminded the Members they need to determine if a public hearing is required for the proposal. He noted they should review Section 9 of the regulations for the proposed activity.

John Paul Mereen, Licensed Survey of Gerwick and Mereen, 191 Boston Post Road, East Lyme presented the application. He noted the property is one lot, consisting of 3.99 acres; there is a proposed boundary line adjustment in two areas, one with town and one with a neighbor. The edge of the wetlands is basically same type of thing as the pond, but the boundary line is not the pond.

When the property was surveyed in 70's the boundary lines were put around the pond for a spillway on Mostowy Rd. It was surveyed again when the town took the property. The property line is not the pond. There are areas in which there is dry land owned by the town at this point in time. He noted that the soil types were listed; Carlton, Chatfield, and he noted the slope and water.

The proposal is to create another lot on the North side of property, with a 50' access to the remaining house. An easement would be provided for power and utilities to the new lot. The applicant would like to put another small building on the lower portion of the lot, as there used to be a small building there, possibly a cottage. The proposal includes a septic system pumped up to an area in the back. The blue line is the wetland; 50' setback line and 100' wetland review area were also noted. Most of leaching area is outside of 100', and a rain garden is suggested to be used.

The comments from the soil scientist are in the Agency packets. He noted the Erosion and Sedimentation controls on the fourth page. The soil scientist is Mark Sullivan, Mr. Mereen read from Mr. Sullivan's report. There is no development in the wetlands, but there is some in upland review area (see page one of report 12/22/18).

Mr. Mereen then noted that the engineer is Jeffrey Dewey from Boundaries. He said he would leave the drainage calculations for Mr. Benni, who had comments about storm water and amount of runoff. The change in water surface of Darrow Pond would be 1 100th of an inch for a 25 yr storm event, so there is a negative impact on potential flooding.

Mr. Goeschel stated that he would concur. Ms. Berger said she would like a site walk. Mr. Goeschel stated the drainage calculations need to be reviewed by Mr. Benni, as Mr. Mereen noted there were some minor changes. Mr. Goeschel suggested they schedule the site walk and have discussion at the next meeting. He continued that he doesn't think this proposal needs a public hearing, as it is a single family dwelling not an apartment complex and is not too close to the pond. Ms. Berger asked how big a home is proposed on the lot; Mr. Mereen responded it is a tight lot for setback lines, so there is a four bedroom home proposed. It is not a huge dwelling; based on the test pits done a few years ago it will not have a full basement, but rather a crawl space. Mr. Sullivan stated there was no significant impact to wetlands or watercourse on site or off site. The combined house and garage have approximately a 1000' footprint.

It was suggested the buffer be added to the plan. Ms. Berger asked do we need the soil scientist at the meeting for questions. Mr. Mereen responded that the wetland is mostly the pond, with some areas of muck type soils. Ms. Berger asked are there invasive there. Mr. Mereen responded there is grass, brush, then pond.

Mr. Goeschel said it is possible there are some there. He noted that the pond has very little in the way of invasive species. He suggested that he work with the applicant to develop a remediation plan if necessary.

The Agency agreed that no public hearing was necessary but that they would like to conduct a site walk at the next regularly scheduled site walk.

- B. Application of Russ Smith, Amity Construction, Owner; Application for an Inland Wetlands Permit for demolition of an existing house and construction of a new single family dwelling with necessary appurtenances at 16 Lakeview Circle, Niantic.

Mr. Goeschel noted that the applicant is not here this evening, based on the assumption this project would require a public hearing. Mr. Goeschel reviewed the plan administratively, based on the proximity to the pond, and the scope of the project, he is not comfortable with issuing an administrative permit. The question is does it need a public hearing; he notes that the whole parcel is regulated; it is all in an upland review area. There is a significant disturbance based on the activity proposed and the new home will have greater square footage.

Ms. Berger moved to schedule a public hearing for the Application of Russ Smith, Amity Construction, Owner; Application for an Inland Wetlands Permit for demolition of an existing house and construction of a new single family dwelling with necessary appurtenances at 16 Lakeview Circle, Niantic, for February 11, 2019, and that the proposal be placed on the Site Walk agenda. Ms. Ostfeld second the motion. Motion passed 4-0-0.

VIII. Old Business - None

IX. Reports

- a. Chairman's Report – no report.
- b. Inland Wetlands Agent Report
 - i. Administrative Permits Issued – 2 permits (40 Mayfield Terrace pool and a deck somewhere else)
 - ii. Commission Issued Permits - GDEL
- c. Enforcement
 1. **Cease, Desist and Restore Order, Roxbury Road;** for the clearing, grading, removal and deposition of material on land within 100-feet of a wetlands and watercourse at the above referenced address without any permit under the East Lyme Inland Wetlands and Watercourses Regulations authorizing the regulated activities on property located on the southwest side of Roxbury Road across from the entrance of the Town's Municipal Transfer Station, Assessor's Map 16.1, Lot 43, Niantic, Connecticut.

Mr. Goeschel stated that at the last meeting the Agency voted to reissue the Cease, Desist and Restore Order. He has met with Mr. Weiss, and he is intending to do a subdivision, with 5 to 10 lots. The proposed plan indicates the stock pile hauled in is approximately 115' from the nearest wetland boundary. There is concern about filling of the wetland; it is our opinion that the wetland was filled in over time by the prior landowner. Mr. Weiss was told to apply as quickly as he could, to stabilize the site and come before commission. He needs to submit the copy of the plan he has, then the commission can lift the Cease and Desist. His intent is to come before the commission and resolve the Cease and Desist and apply at the same time. Ms. Berger asked if these would have sewer or septic, Mr. Goeschel provided that they would be septic. Ms. Berger further inquired if

we can we require an independent soil scientist. Mr. Goeschel noted that when Mr. Weiss makes application we can require a complex application fee for a peer review by a soil scientist or wetlands scientist. We can do that.

Mr. Koch stated Mr. Weiss does things within the wetlands before we say ok, he asked Mr. Goeschel to explain the process for pursuing a violation. Mr. Goeschel provided the process and stated the agency can impose fines. He will provide the agency the fee schedule for the next meeting.

Ms. Berger noted that the agency was previously working on their regulations and that she would like to see them moved forward and placed on the next agenda.

2. **Cease, Desist and Restore Order; 13 Green Valley Lakes Rd; Thomas & Kristen Chantrell, Owner;** Installation of a dock which encroaches approximately 20-feet into a watercourse located on an abutting property and the clearing, grading, removal and deposition of material on the land within 100 feet of a watercourse without an Inland Wetlands Permit. (Agreement to remove by August 31, 2018).

Mr. Goeschel reviewed the issue for the new member. He reminded the agency they were awaiting a plan to remove the posts, and due to the holidays the owner was given 60 to 90 days, he will have to check the minutes.

- d. Correspondence – None

Adjournment

Ms. Berger moved to adjourn the East Lyme Inland Wetlands Agency meeting at 8:23 p.m. Ms. Ostfeld second. Motion passed 4-0-0.

Respectfully Submitted

Jennifer Lindo Dashnaw
Recording Secretary

****These minutes are subject to approval at the next monthly meeting**

